

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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MANUEL ROBERT LUCERO,  
Plaintiff,

v.

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GEORGE GLYNOS, et al.,  
Defendants.

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) Civil Action No.  
) 22-11823-NMG  
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ORDER

GORTON, J.

Pro se litigant Manuel Robert Lucero, V, brings this action under 42 U.S.C. § 1983 and the Religious Land Use and Institutionalized Persons Act, 42 U.S.C. § 2000cc et seq, alleging that officials at the Essex County Correction Facility ("ECCF") were depriving him of resources necessary for the observance of his pagan traditions. He seeks compensatory and injunctive relief. Exhibits to the complaint indicate that, in the relatively narrow window of time between <sup>when</sup> he arrived at ECCF on September 13, 2022, see Compl. ¶ 17, and his signing of the complaint on October 21, 2022, see id. at 9, Lucero made three "Inmate Requests" and two "Inmate Formal Grievances," none of which had been resolved to Lucero's satisfaction. See Compl. Ex. (Docket No. 1-2). On March 5, 2023, Lucero informed the

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clerk that he had been moved to the Souza-Baranowski Correctional Center. (Docket No. 10).

Given that Lucero's transfer out of ECCF has mooted his request for injunctive relief against ECCF employees, it is unclear whether Lucero wishes to pursue this action. At this point, the Court takes no position on the sufficiency of Lucero's complaint. However, as a practical matter, Lucero may want to voluntarily dismiss this action prior to resolution of the filing fee.<sup>1</sup>

Accordingly, for the reasons stated above, the Court hereby orders:

1. The motion for preliminary injunctive relief (Docket No. 3) is DENIED without prejudice as moot.

2. Lucero shall, within twenty-eight (28) days of the date of this order, inform the Court if he intends to pursue this action. If Lucero does not respond to this order, the

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<sup>1</sup> The filing fee has not been resolved because of reported difficulties in obtaining a prison account statement from ECCF officials. (Docket No. 9). If the matter of the prison account statement is later resolved and the Court permits Lucero to proceed without prepayment of the filing fee, Lucero will still be required to pay the \$350 statutory filing fee over time, regardless of the outcome of the lawsuit. See 28 U.S.C. § 1915(b). In addition, summonses will not issue unless, after having review<sup>ed</sup> the complaint pursuant to 28 U.S.C. §§ 1915(e)(2) or 1915A, the Court determines that the defendants should be required to respond to the pleading. SMJ

Court will consider this action to be voluntarily dismissed and the matter shall be closed without assessment of the filing fee.

3. The motion for service by the United States Marshals Service ("USMS") (Docket No. 3) is DENIED without prejudice. Should Lucero elect to go forward with this action and the Court orders that summonses issue, the Court will order that the USMS complete service with all costs to be advanced by the United States (so long as the Court has allowed Lucero to proceed in forma pauperis).

4. The motion for an issuance of a subpoena to obtain a prison account statement from ECCF and additional time to file the same (Docket No. 9) is DENIED without prejudice. If Lucero elects to proceed with this action, the Court will enter a separate order concerning resolution of the filing fee.

So ordered.

  
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Nathaniel M. Gorton  
United States District Judge

Dated: 05/04/2023